

**Department of Planning and Zoning, City of Alexandria, VA  
Green Building and Sustainable Development Working Group Meeting  
8.30am to 10.15am Thursday, March 5, 2009  
Sister Cities Conference Room, City Hall, Alexandria, VA**

**Meeting Notes:**

**In Attendance:**

Erica Bannerman  
Geoffrey Booth  
Maggie Cawley  
Al Cox  
Bob J. Elliott, Jr  
Brian Gordon  
Faroll Hamer  
Beth Heider  
Rich Josephson  
Lisa May  
Dennis McKinney  
Jeremy McPike  
Judy Noritake  
Katie Parker  
Peter Pennington  
Robert Phinney  
Barbara Ross  
Greg Ruff  
Lou Sagatov  
Bill Skrabak  
Ken Wire, JD

**Apologies:**

Martin Johnson  
Frederick W. Rothmeijer

**Progress To-Date / Updates**

- Geoffrey Booth opened the meeting and explained that now that the draft policy was proceeding to Council ERM's current commission would soon be concluded. In all probability this would be the last meeting of the working group that he would be chairing. He congratulated all members on what they had achieved through their active participation in the working group. He then up-dated the group on the current status of the draft policy.
- Geoffrey Booth then welcomed Dennis McKinney, a new working group member from the Department of Human Services and VA Job Link, and Lisa May, a government affairs staff member and manager at the Northern Virginia Association of Realtors and invited them to talk a little about their work.
- Dennis McKinney informed the working group of the green workforce consortium, made up of local architects, inventors, and energy companies, that has been formed to compete for stimulus package and Department of Energy and Science funds. He explained his

background in construction and interest in matters green building. Denis hopes to leverage training and employment opportunities for local residents with the work related to the green building policy.

- Lisa May told the working group that part of her work as a government affairs staff member is related to commercial real estate, and deals with/ promotion of green buildings. One issue she is watching is affordability and green building standards, particularly related to multi-family residential.
- Geoffrey Booth congratulated Rich Josephson on his recent appointment to the Director of Planning Services, at the Maryland Department of Planning which position is based in Baltimore.
- Geoffrey Booth noted that the City's Green Building Forum had been a success, and that the City's Planning Commission had met in working session on matters green building in early February. He acknowledged the members of the working group who had participated on the panel at the Forum and the comments they had made about what they liked and didn't like about the draft policy.
- Geoffrey Booth pointed out that Bill Cromley commented that if the industry is going to achieve the higher green building classifications then as a matter of procedural fairness and good public policy they shouldn't be encumbered by the same taxes as those who do not. There was no change in policy based on the forum, but the need for a phase two implementation involving incentives, and outreach and education issues was considered vital.
- Barbara Ross noted that members on the panel had questioned whether LEED Silver should be the standard required by the policy rather than LEED certified. Geoffrey reminded the group that this topic has been discussed many times and that all opinions have been well documented and probably all we could hope for here was that we agree to disagree. He also noted that there is a complete film of the Forum proceedings and deliberations on the City's website.
- Rich Josephson summarized the 25-30 written questions submitted at the Forum and explained that the limited time available prevented all being answered during the forum. The City is attempting to answer these and put them on the website. Some of these questions included:

When will the policy go into effect?

How will the city monitor and report on the progress of green building?

Will it take priority over other city policies?

What are the consequences of not getting a 3<sup>rd</sup> party certification?

Is the City promoting density and height around metro stations?

What is the City's competitive advantage, disadvantage?

What are the costs and returns with respect to reduced urban services infrastructure spending?

What's already being done?

What about green and historic buildings?

- Rich Josephson then went on to discuss the Planning Commission work session held on the 3rd February, 2009. The Commission had similar questions to those raised at the Forum including:

What is the potential for reducing infrastructure costs?  
 What is the date when the policy should take effect?  
 Will water conservation measures save the city money?  
 How do we discuss the green benefits of historic preservation?  
 Are we recycling building waste?  
 What is happening with existing buildings?

- It was noted that the draft policy focuses on new buildings that are subject to Site Plan and DSUP approval. With respect to existing buildings the best we can do at present is to address this through education and outreach. The Commission would like the residential standard to be LEED silver or equivalent. While the reuse of existing buildings is preferred where possible, it is understood that the orderly growth of the City will also involve new construction. For example, around Braddock metro station the one-story industrial buildings are not conducive to higher density and the buildings won't fit into redevelopment schemes and need to be rebuilt. Rich Josephson said the Planning Commission had been very focused and supportive of the draft policy which reflected great credit on the work performed by the City of Alexandria Green Building and Sustainable Development Working Group.
- There is a City Council Work Session on the draft green building policy next Tuesday at 6:00 pm in council chambers and Rich Josephson encouraged everyone to attend.

### **Purpose of Today's Meeting**

- Rich Josephson then asked that working group members focus in this meeting on the following outstanding issues:

**Compliance:** What was the method of compliance that would work for Council, the Development Industry and the community?

**Certified versus Silver:** Last thoughts before the draft policy goes to Council.

**Commencement of Operation of Policy:** Would the date the policy was adopted by Council work for everyone?

Rich confirmed that the draft policy was not intended to apply to duplexes and single family detached houses.

### **Policy Enforcement**

- Compliance will be a major determinate of the success of this green building policy. The current draft policy provides a two year timeframe from issue of certificate of occupancy for the developer to achieve submission to Council of the required third party green building certification of their project. Beth Heider explained that proof of preparation of documentation for registration of the project for certification should accompany the DSUP and Site Plan application. At the application for Certificate of Occupancy (CO) the developer should be required to provide proof of registration and lodge with Council all documentation that proves that it is on track to submit the required material with the third party certification agency. Then within in two years of the issue of the Certificate of Occupancy the actual Green Building Certification would need to be furnished to Council. Beth explained that

USGBC is working to turn certifications around more quickly, but it takes 3-6 months or more from lodgment by the developer of final documentation.

- Robert Phinney agreed that the administrative duties take time. The average project has the USGBC construction submission completed 2-6 months after substantial completion. Total timeframe is about 1-1.5 years for certification: 6 months for 1<sup>st</sup> stage, clarification and audit stage is about 1 month, and another 6 months after that. It is not efficient enough to link to CO. Beth Heider explained that USGBC is going out of house to reduce lag time in hopes that the ISO standard will speed up process. She then asked if the City was looking for 3<sup>rd</sup> party certification or delivery from USGBC. Rich Josephson said they were looking for 3<sup>rd</sup> party certification, so 2 years after CO should be achievable.
- Robert Phinney said that given that time frame, enforcement could be problematic. He enquired whether after 2 years failure to furnish to the City the required green building certification, whether the City would take steps to revoke the CO? Jeremy McPike said that the progressive approach outlined by Beth Heider was a common sense method to align the City's enforcement procedures with what the developer would have to be doing to secure green building certification—it would therefore not impose an onerous burden on those developers acting in good faith. Bob said that the City quite often requires detailed design drawings which can prove both expensive and abortive if they subsequently require concept changes. He came back to the subject of performance bonds in lieu.
- Robert Phinney and Jeremy McPike outlined how the developer can secure design credits and reduce the USGBC fee providing both a safety margin and saving money.
- Geoffrey Booth reminded the working group that this was the very reason we have included significant discretion on the issue of compliance to be exercised by the Director to provide for and protect those developers making a genuine good faith attempt to comply with the policy. He explained that if the City held off adoption of the policy pending adoption of a water tight compliance system it would lose more in the way of improved green building standards and practices than it would gain by the delay. Geoffrey said that Bob's reference to performance bonds would introduce a significant financial burden to the development industry when they could least afford it—additionally due to the current parlous state of the financial system it was problematic as who was left in the marketplace who would provide such financial products at a reasonable price..
- Bill Skrabak said that the City is not envisioning revoking the CO after the building is built. Ken Wire suggested that perhaps at lodgment of the application for building permit the developer be required to produce proof of the projects' USGBC registration or equivalent. Bob Elliott and Robert Phinney agreed, saying that this would inherently encourage compliance with the policy considering it a win-win situation and a nudge towards green.
- Ken Wire asked whether, within LEED, there might be a halfway step. Robert Phinney advised that there was and it was in the design submission. Bob Elliott pointed out that points aren't awarded at registration. Bill Skrabak said that by the final site plan approval the City would want the project registered; by CO issue, substantial developer progress to LEED certification or equivalent design submission; and 2 years after CO they want proof of certification. He said that he appreciated the City will have flexibility pursuant to the policy if the process is dragged out by the Certification Agency, through no fault of the developer.

- Faroll Hamer commented that the working group is on the right course, but at the end of the two year period after issue of CO what happens if green building certification is not secured? Where are the teeth? Performance bonds are not a good thing because they tie up too much money; the alternative is a fine or violation, which involves the City in a lengthy and expensive legal process. She suggested that the City write something into the DSUP conditions of approval that requires a large payment if the developer/building does not reach green building certification by a designated date.
- Lou Sagatov noted that any developer could avoid this large payment by putting the LLC that held the property into liquidation. Faroll Hamer explained that it would be in the form of a condition of approval that ran with the land. Bob Elliott noted that anyone who is a serious builder in Alexandria will not violate this policy without adequate justification because they want to do another project here. Beth Heider asked if it is possible to require a bond of subsequent projects if the developer doesn't perform the first time around. Greg Ruff said it is difficult because this would involve yet another layer of bureaucracy – What is the safety valve if USGBC is the hold up?
- Peter Pennington pointed to the imperative of improving green building standards within the City of Alexandria. What the city needs is the benefits that flow from green buildings and a sum of money in lieu is not a desirable alternative. If a financial penalty is to be entertained it should be of sufficient size to cover the cost of bringing the building up to the required green building certification standard.
- Robert Phinney said that approach might be seen as a little too black and white and perhaps a more pragmatic approach would work better. He pointed out that a developer will often sell the building after securing the CO. Therefore after 2 years, the developer is no longer responsible for the certification? Ken Wire explained that such an obligation must attach to the property not the developer. Robert Phinney asked about retrofits – there is a different owner and tenants and you cannot force that upon them. Peter Pennington said that the obligation must be on the developer to disclose at sale the project is not certified to the required green building standard. Faroll Hamer agreed and said that the buyer just had to read the DSUP condition. Rich Josephson said that the City does this now.
- Geoffrey Booth reminded the working group that they had discussed the performance bond proposal and dismissed it on several previous occasions. In the current financial climate it would be even more difficult to secure a cost-effective performance bond. He reiterated Faroll's point that long and involved sanctions and remedies will cost both the City and the development industry more than they were worth. He said that Peter Pennington's point was particularly germane and that while there would be some developers intent of avoiding their obligations we should resist the temptation to design policy to the lowest common denominator. Geoffrey said that Faroll's idea constituted a very elegant and practical solution – a punitive amount agreed as a condition of development that ran with the land. Beth's common sense solution to align the steps in the green building certification process with the DSUP/SP application, Building Application, CO and thereafter would prove cost-effective for both Council and the developer and the "good faith" discretion afforded the Director in the draft policy could not only protect the City but also developers held hostage by third party certifiers. It would also allow the City, the community and the development industry to "fiction modify" the policy in the months following its adoption.

- Robert Phinney agreed that was an elegant solution that could work to everyone's advantage. He did point out that there were still a lot of what-ifs. It's not a performance bond, but felt that in an ideal world performance bonds, "add teeth". Geoffrey Booth said that Ken Wire and other land use attorneys would be reviewing the wording and implications of the condition that Faroll Hamer proposes and would be acting to protect their clients in acquisitions from those few unscrupulous developers who attempted to pass their obligations to secure green building certification to the purchaser and thereby passing the punitive damage involved in non compliance by the specified date. Rich Josephson wondered what the appropriate amount should be?
- Lou posed the question of a building that is performing fantastically as a green asset but can't get through the USGBC process. It clearly achieves city's goals, but cannot pass. What do you do? Robert Phinney answered that going through the USGBC process makes you go ad nauseam over why you should get this certificate. If they disagree it is a single issue for the City to review. He said that there has to be faith in USGBC, but he is currently in a battle with an independent reviewer with respect to the energy efficiency credit. In this case USBC has provided a free appeals process and has authorized a new reviewer. Judy Noritake added that a building might not qualify because you are doing something innovative, and Faroll Hamer said that is why there is the flexibility built into the policy – so you can make your case. For example, a building is off the electricity grid but can't get the points. Robert Phinney added that a net zero building may not be near a metro and limited in attaining points due to location.
- Geoffrey Booth pointed out that the draft policy provides for periodic reporting. Bill Skrabak said that during the approval process, the City can agree with the developer or disagree and support USGBC, OR there is middle ground – there is no large penalty, but do X,Y,Z or cash equivalent. For example, contribute to city's recycling fund, etc. Geoffrey Booth reminded the working group of Peter Pennington's point that the policy's raison d'être for the City of Alexandria is to improve the standard of green building and the benefits that accrues to all.
- Faroll Hamer said if they find too much mitigation, they can take it back to Council for an amendment. Jeremy McPike acknowledged that cutting corners will not achieve the City's green building standards and that the building stock constructed now will be here for 50 years or more—quite a life span for an underperforming building. He thought maybe the relief valve for a non-complying building might be in attempting to secure LEED existing building certification instead?
- Robert Phinney suggested using LEED as the 3<sup>rd</sup> party when the design submission is made. EA and water are design credits but don't speak to final building performance. Design for HVAC is submitted for review, and they will theoretically meet standards and save X on operations. This becomes a legal obligation because it is in City contract drawings. During construction, the developer could direct the installers to change things, but they would be in violation of permit agreements.
- Bob Elliott said he agreed in general with Robert's comments about the building systems, but wondered whether the USGBC would be in agreement with energy calculations done by the developer? It will be hard for the city to figure out whom to side with. Robert Phinney said the USGBC is aware of these problems.

- Rich Josephson agreed that we'll need further discussion on enforcement but thought that the consensus we had reached in the today's discussion as outlined a moment ago by Geoffrey Booth was a solid foundation on which to move forward. Beth Heider undertook to provide research details on what other cities have done in this regard.

### **LEED Certified vs. Silver**

- Geoffrey Booth asked Robert Phinney to talk about the research he has done and the proposal that he has brought forward to secure the LEED silver standard for projects in the City of Alexandria. Robert explained his assumption that moving forward we will look at LEED version 3 on a 100 point scale. It is more beneficial to urban projects than LEED version 2.2. For a baseline of understanding, certified = 30 and silver = 50. In about 50% of the city, mass transit and alterations to current city policy, projects would end up automatically qualifying for between 11 and 14 points. Location is beneficial. 11 points near a metro with high density is automatic. So the developer only needs to find 39 in the actual building points. In essence there was an intrinsic dividend for developers in the City of Alexandria because of the investment the City had made in urban and transportation infrastructure.
- Ken Wire asked if he was basically implying a Silver zone. Beth Heider said that from a development perspective it is more of an investment to buy land near a metro.
- Rich Josephson tabled a map of all metro locations and bus routes in city. The majority of the city is in this 'Silver zone'. The City could set benchmark timeframes to review the green building certification standards particularly in a no-building climate. They can ask, do we need to raise it or has it been done by USGBC? Judy Noritake suggested that the City start with certified now and move to silver in 2-3 years to give people time to think about it.
- Geoffrey Booth disagreed and pointed out that the City has created an edge for developers to secure more easily than elsewhere the silver green building standard and as Beth Heider points out they have paid the premium in acquisition of these sites because they are more marketable.
- Rich Josephson passed around a sheet listing green building projects with DSUP approvals. It was clear that applicants had been achieving certified level and higher without much difficulty. The City wants to see this policy ratchet it up beyond what is happening now. Robert Phinney explained how his proposal could achieve this without great cost to the development industry.
- Bob Elliott asked if the list circulated by Rich Josephson was a comprehensive list and Katye Parker confirmed that it was. Ken Wire asked if the group could discuss incentives? He brought up recent legislation passed in the State House that grants every local authority the power to reduce application fees or expedite development application processes but explained this applied only to projects involving green roofs. Judy Noritake added that the Governor had proposed that all government buildings be LEED Certified, but this legislative proposal failed due to issues related to the State Board of Forestry and the timber lobby. She also commented that while northern Virginia is working towards green, the rest of the state is doing nothing. Brian Gordon added that the Chamber passed a constitutional amendment to allow local government to pass lower tax rates for green buildings.

- Lou Sagatov said we are losing sight of the main issue. LEED keeps pushing, but if water conservation and energy efficiency aren't improving, why push for points for other things? The City needs to see increased benefit on water savings, etc. Robert Phinney agreed, and added that he would love to see specific targets from the city other than certified or silver – specific performance targets. LEED 2009 prerequisites for water conservation and 14% energy efficiency over standards. Minimal LEED certification has these prerequisites built in. For example the City could say 'LEED requires this, but we are going to say for us you need to do X'. And if you are doing something special, here's an incentive. Robert added that a developer would be crazy not to hit 40% on water because points through water efficiency are easy. Energy provides a better example – instead of 14%, the City wants 18% to improve upon it. Look at ASHRAE standards and if they haven't ratcheted them up, the City should.
- Bill Skrabak said that the City acknowledges the priorities, but didn't want to hold up the whole process to get the perfect policy. This can happen in Phase 2, where things like sewer tap fees can be looked at. Rich Josephson reminded the group that they had talked about incentives being reserved to reward those buildings that achieved gold or platinum standard.
- Ken Wire said that for certain projects there are no issue with Silver. Size and location for others will however make Silver difficult to cost-effectively obtain. In these cases the City, Ken pointed out will have a choice to make, development or no development. Rich Josephson reiterated that that was why flexibility was built into the draft policy.
- Bill Skrabak said that the City is pushing to achieve LEED Silver or equivalent as the baseline standard for the policy. He encouraged the group to have a discussion on effective date (phase in period, etc) and if a consensus is reached, the Council can weigh the positions.
- Geoffrey Booth agreed with Ken Wire's comment that as soon as this policy is passed, the City will be in a negotiation situation with the development industry. It will be 18 months or more before the policy is where the City wants it to be. As to Bill Skrabak's point on developing a phase in period he said this was unnecessary given the flexibility in the draft policy and that if the City wanted to improve the standard of green building as soon as possible it should adopt the draft policy and then work with the development industry and community to achieve these standards ASAP.
- Bill Skrabak repeated that the City staff is clearly pushing for Silver and he just wanted to make that clear. There may be a compromise, but it is the Council's final decision. Inevitably the development industry will make the City compromise when they say "Here is my project, and I can get it to Certified. We will make our best efforts to get to Silver but there are no guarantees. Approve it or it won't go ahead."

### **Effective Date**

- Rich Josephson picked up Geoffrey Booth's point and asked when the draft policy should take effect? From the date of Council adoption?
- Robert Phinney asked what currently triggers DSUP approval. Ken Wire said the answer is not so simple. Rich Josephson added that the City doesn't set the schedule. Ken Wire reminded the group that this is a policy and not a regulation. It will create a framework for negotiation.
- Rich Josephson asked the group what their major concerns are at this point. Bob Elliott answered that the people in this room are not going to have concerns, but the policy will



bring people out of the woodwork. People in the room can probably live with it, but they are not the ones the City must worry about. The City through this policy is making clear its commitment to work with the Community and development industry to secure a high standard of green building performance within the City of Alexandria.

- Geoffrey Booth said that the policy should take effect from the date of Council adoption as the critical point was that all new projects in the City of Alexandria should be conceptualized, designed, constructed, maintained and operated to provide all parties with the sustainability dividend. Bob Elliott argued that not everyone will be thinking that way. People who already own will see this as an additional requirement. Rich Josephson said he understood that this perception was something that will change over time but the longer it was delayed the longer it would take to achieve. Robert Phinney and Jeremy McPike agreed that the policy should apply from date of adoption by Council.

## **Phase Two**

- Rich Josephson stated that it will be desirable for this group to get together once the policy is passed and began a discussion of Phase 2. Meetings will not in all probability be as frequent, but the group could provide a very valuable advisory role to the City, and be well placed to monitor and advise the Council on the performance and implementation of the policy. The City has a number of things they still have to deal with, including:
  - Single and multi-family homes
  - Existing buildings
  - Director exemptions need to be tracked – establish criteria for why they are being made
  - Sustainable site initiatives – not completely fleshed out but the City has interest. This is not a building policy, but what can be done in the planning context and surrounds of the building.
- Peter Pennington added that during the last EPC discussion, the need to look at zoning policy to match the Environmental Action Plan was a focus of discussion. Rich Josephson said that the City will be mapping things and using their resources to make policy better understood by development community.
- Robert Phinney noted that the quality of the Council's upfront commitment to assisting developers understand and commit to this policy is very important—publishing the mapping on the City's Green Building website is a good first step.
- Lou said that the City has done a great job on shepherding ideas, and added some additional website suggestions:
  - Resource section – add information on new homes and existing homes. Links could include Energy Star, EEBA, Building Science Corp., NHA green, LEED for Homes, State NHAB & Earthcraft
  - Add how people can retrofit and save energy in existing homes, possibly renovation NHAB green
  - Use the website as a springboard to get info out there and open dialog.

- Peter Pennington added that the Buy Alexandria campaign could include a core of green contractors and perhaps Dennis McKinney could be involved in this. On top of Energy Star, also wished to add the EPA's Water Wise information.
- Robert Phinney brought up the amount of money included in the Federal stimulus package for energy efficiency upgrades. These could be taken in block grants but implementation is unclear at present. Block grants could be used in lower income neighborhoods. Contractors could be brought in to train unemployed locals on how to install insulation, etc. Robert explained that he was looking into a program within the City to take advantage of the money. Dennis McKinney said that there is a project being put together now. There will be a meeting on March 13 with the local housing authority and the City to use some block grant money to do exactly that.
- Lou Sagatov added that BPI does training for entire building envelope assessment, which could give people the big picture instead of bits and pieces. The VA Sustainable Building network is involved with BPI. Dennis McKinney said that they are involved with the consortium.
- Judy Noritake said that if there is stimulus money for water issues, and the City should do low impact developments on a watershed basis because CSOs are too large and expensive.
- Jeremy McPike said that the City is looking at all the different issues in stimulus package, but he asked the working group to bring forward any ideas for innovative programs. Only State and local governments are allowed to go after some of the money and the City is keen to reach out to the community and the development industry to find energy efficiency programs. Jeremy Mc Pike encouraged anyone on the working group to contact him with their ideas— [Jeremy.McPike@alexandriava.gov](mailto:Jeremy.McPike@alexandriava.gov) Jeremy explained time was limited but he wants to make the most of this unique opportunity. The funding through the energy act is \$2.7 billion.
- Robert Phinney told the group that the stimulus is not necessarily tied to block grants and that money is available for private enterprise as well. The City could take a coordinating role and work with private sector as well.
- Ken Wire asked who will run the working group once Rich Josephson takes up his new position with MDP, and Rich said that a decision has not yet been made. He encouraged the group to attend the following meetings:
  - City Council work session on Green Building policy on March 10 at 6:00 pm.  
City Hall, Council work room
  - Green Forum sponsored by Agenda: Alexandria on March 23 at 6:30 pm(see details below)
- Rich Josephson closed the meeting by saying that it had been great working with the group and that he was sure the green building policy will be successful because of the contribution made by working group members.

## **Agenda: Alexandria**

## Monday, March 23 Green Forum

Reception 6:30 pm, Dinner 6:45 pm, Program 7:15 pm

**Agenda: Alexandria, "Alternative Energy, 'Green' Buildings & Our Eco-Future: Is Alexandria on the Cutting Edge? Are our Homes?"** at the Holiday Inn Eisenhower Metro Center, 2460 Eisenhower Avenue, Alexandria.

The meeting will explore the environmental challenge of climate change and how Alexandria is responding. In addition, we hope to contribute some new ideas for future action.

The speakers will be **Eric Roston**, author of "The Carbon Age;" **William Skrabak**, Director for the City of Alexandria, Office of Environmental Quality; **Rich Josephson**, Deputy Director for the City of Alexandria, Department of Planning and Zoning; **Nathan Imm**, a registered landscape architect and Director of Operations for EDAW's Alexandria, Virginia Design Studio; and **David Peabody** of Peabody Architects, a leader in Alexandrians for a Green TC.

Co-Chairs/Moderators, **Rosalind Bovey** and **Paul Friedman**. Dinner is \$22 for members/\$27 for non-members. Reservations are required for dinner. Attending the program only is free to members/ \$5 for non-members. For more information or to make reservations, contact Sherry Brown at 703-549-4696 or [agendaalexandria@aol.com](mailto:agendaalexandria@aol.com).